



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

January 18, 2019

BY FEDEX

William J. Lovett, Esq.
Hogan Lovells US LLP
100 High Street
Boston, MA 02110

Re: *United States v. Richard Gaffey*, 18 Cr. 693 (RMB)

Dear Mr. Lovett:

This letter provides initial discovery pursuant to Rule 16(a) of the Federal Rules of Criminal Procedure ("Fed. R. Crim. P."), and pursuant to the terms of the January 8, 2019 Protective Order in this matter signed by the parties and by Judge Berman. The Government also seeks reciprocal discovery.

Disclosure by the Government

Based on your request for discovery in this case, I have enclosed a hard drive containing copies of the following materials, which are Bates-stamped with control numbers PANAMA0000000001 through PANAMA0000808532:

Bates Range	Description
PANAMA0000000001-PANAMA0000000154	Records subpoenaed from UBS AG
PANAMA0000000155-PANAMA0000004935	Records subpoenaed from Boston Capital Ventures
PANAMA0000004936-PANAMA0000014227	Records subpoenaed from Elder Gaffey & Paine
PANAMA0000014228-PANAMA0000014274	Records subpoenaed from UBS AG
PANAMA0000014275-PANAMA0000018457	Records subpoenaed from Peninsula Investments Group
PANAMA0000018458-PANAMA0000024140	Records subpoenaed from Boston Capital Ventures

Bates Range	Description
PANAMA0000024141-PANAMA0000024291	Records subpoenaed from UBS AG
PANAMA0000024292-PANAMA0000030896	Records subpoenaed from Elder Gaffey & Paine
PANAMA0000030897-PANAMA0000035849	Records subpoenaed from Boston Capital Ventures
PANAMA0000035850-PANAMA0000035851	Records subpoenaed from Charles Schwab
PANAMA0000035852-PANAMA0000036347	Records subpoenaed from JP Morgan Chase
PANAMA0000036348-PANAMA0000036679	Records subpoenaed from Wells Fargo
PANAMA0000036680-PANAMA0000042768	Records subpoenaed from Boston Capital Ventures
PANAMA0000042769-PANAMA0000044498	Records subpoenaed from UBS AG
PANAMA0000044499-PANAMA0000045371	Records subpoenaed from Inter Audi Bank
PANAMA0000045372-PANAMA0000045515	Records subpoenaed from First Republic Bank
PANAMA0000045516-PANAMA0000046120	Records subpoenaed from Harald Jochim von der Goltz
PANAMA0000046121-PANAMA0000048161	Records subpoenaed from Brickell Bank
PANAMA0000048162-PANAMA0000048218	Records subpoenaed from BMW Financial Services
PANAMA0000048219-PANAMA0000056823	Records subpoenaed from Elder Gaffey & Paine
PANAMA0000056824-PANAMA0000057301	Records subpoenaed from Peninsula Investments Group
PANAMA0000057302-PANAMA0000057377	Records subpoenaed from HSBC
PANAMA0000057378-PANAMA0000067555	Records subpoenaed from Boston Capital Ventures

Bates Range	Description
PANAMA0000067556-PANAMA0000067631	Records subpoenaed from Peninsula Investments Group
PANAMA0000067632-PANAMA0000067638	Records subpoenaed from Abrahm Smith
PANAMA0000067639-PANAMA0000067919	Records subpoenaed from Morgan Stanley
PANAMA0000067920-PANAMA0000067933	Documents from presentation given by Credit Suisse
PANAMA0000067934-PANAMA0000067991	Records subpoenaed from JP Morgan Chase
PANAMA0000067992-PANAMA0000074657	Records subpoenaed from Boston Capital Ventures
PANAMA0000074658-PANAMA0000076477	Records subpoenaed from Elder Gaffey & Paine
PANAMA0000076478-PANAMA0000097019	Records subpoenaed from First Republic Bank
PANAMA0000097020-PANAMA0000097020	Records subpoenaed from UBS AG
PANAMA0000097021-PANAMA0000106454	Records subpoenaed from Boston Capital Ventures
PANAMA0000106455-PANAMA0000108546	Records subpoenaed from American Express
PANAMA0000108547-PANAMA0000108708	Records subpoenaed from Alejandro Santo Domingo
PANAMA0000108709-PANAMA0000110430	Records subpoenaed from Annemarie von der Goltz
PANAMA0000110431-PANAMA0000110483	Records subpoenaed from JP Morgan Chase
PANAMA0000110484-PANAMA0000374730	Records subpoenaed from Boston Capital Ventures
PANAMA0000374731-PANAMA0000374733	Records subpoenaed from

Bates Range	Description
	Bank of New York Mellon
PANAMA0000374734-PANAMA0000380504	Records subpoenaed from Bank of America
PANAMA0000380505-PANAMA0000390213	Records subpoenaed from Boston Private Bank & Trust
PANAMA0000390214-PANAMA0000390263	Records subpoenaed from Brooke Private Equity Associates
PANAMA0000390264-PANAMA0000405808	Records subpoenaed from Brickell Bank
PANAMA0000405809-PANAMA0000406429	Records subpoenaed from Brookline Bank
PANAMA0000406430-PANAMA0000406627	Records subpoenaed from Belle von der Goltz
PANAMA0000406628-PANAMA0000407164	Records subpoenaed from Capital One
PANAMA0000407165-PANAMA0000408781	Records subpoenaed from Citibank
PANAMA0000408782-PANAMA0000408782	Records subpoenaed from Camden National Bank
PANAMA0000408783-PANAMA0000408784	Records subpoenaed from Scott Collins
PANAMA0000408785-PANAMA0000408955	Records subpoenaed from Computershare
PANAMA0000408956-PANAMA0000409429	Records subpoenaed from Crescent Credit Union
PANAMA0000409430-PANAMA0000410144	Records subpoenaed from Doug Sonnenshein
PANAMA0000410145-PANAMA0000558798	Records subpoenaed from Elder Gaffey & Paine
PANAMA0000558799-PANAMA0000559077	Records subpoenaed from E-Trade Securities
PANAMA0000559078-PANAMA0000559096	Records subpoenaed from Exa Corporation

Bates Range	Description
PANAMA0000559097-PANAMA0000559119	Records subpoenaed from Experian
PANAMA0000559120-PANAMA0000566984	Records subpoenaed from Fidelity
PANAMA0000566985-PANAMA0000589320	Records subpoenaed from First Republic Bank
PANAMA0000589321-PANAMA0000590033	Records subpoenaed from HSBC
PANAMA0000590034-PANAMA0000602445	Records subpoenaed from JP Morgan Chase
PANAMA0000602446-PANAMA0000604925	Records subpoenaed from Lilling & Company
PANAMA0000604926-PANAMA0000606082	Records subpoenaed from LPL Financial
PANAMA0000606083-PANAMA0000606101	Records subpoenaed from Mercedes Benz
PANAMA0000606102-PANAMA0000606121	Records subpoenaed from MetLife
PANAMA0000606122-PANAMA0000607086	Records subpoenaed from NENS
PANAMA0000607087-PANAMA0000614673	Records subpoenaed from Pershing LLC
PANAMA0000614674-PANAMA0000614761	Records subpoenaed from Rain Forest Tram Ltd
PANAMA0000614762-PANAMA0000614847	Records subpoenaed from Joseph Preschel
PANAMA0000614848-PANAMA0000615512	Records subpoenaed from Charles Schwab
PANAMA0000615513-PANAMA0000615513	Records subpoenaed from John Shields
PANAMA0000615514-PANAMA0000617836	Records subpoenaed from Sun Trust Bank
PANAMA0000617837-PANAMA0000618835	Records subpoenaed from Silicon Valley Bank
PANAMA0000618836-PANAMA0000618879	Records subpoenaed from Wolfgang Traber
PANAMA0000618880-PANAMA0000638795	Records subpoenaed from UBS AG
PANAMA0000638796-PANAMA0000640106	Records subpoenaed from

Bates Range	Description
	Harald Joachim von der Goltz
PANAMA0000640107-PANAMA0000640188	Records subpoenaed from Wells Fargo
PANAMA0000640189-PANAMA0000641268	Records subpoenaed from Elder Gaffey & Paine
PANAMA0000641269-PANAMA0000658687	Records subpoenaed from Boston Capital Ventures
PANAMA0000658688-PANAMA0000659175	Records subpoenaed from Elder Gaffey & Paine
PANAMA0000659176-PANAMA0000677265	Panama TIEA returns
PANAMA0000677266-PANAMA0000677328	Records subpoenaed from Elder Gaffey & Paine
PANAMA0000677329-PANAMA0000755762	Records subpoenaed from Brooke Private Equity Associates
PANAMA0000755763-PANAMA0000760793	Records subpoenaed from Boston Capital Ventures
PANAMA0000760794-PANAMA0000760915	Records subpoenaed from Elder Gaffey & Paine
PANAMA0000760916-PANAMA0000761742	Records subpoenaed from Abrahm Smith
PANAMA0000761743-PANAMA0000761915	Panama TIEA returns
PANAMA0000761916-PANAMA0000761961	Documents recovered during border stop of Richard Gaffey
PANAMA0000761962-PANAMA0000763426	Records subpoenaed from Elder Gaffey & Paine
PANAMA0000763427-PANAMA0000763556	Records subpoenaed from First Republic Bank
PANAMA0000763557-PANAMA0000778597	Records subpoenaed from Boston Capital Ventures

Bates Range	Description
PANAMA0000778598-PANAMA0000785868	Records subpoenaed from Elder Gaffey & Paine
PANAMA0000785869-PANAMA0000808532	Records subpoenaed from First Republic Bank

The Government recognizes that its obligation to provide discovery is of a continuing nature, and the Government will continue to provide any additional discovery on a rolling basis.

The Government recognizes its obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny. To date, the Government is unaware of any *Brady* material regarding your client, but will provide timely disclosure if any such material comes to light.

The Government will provide material under *Giglio v. United States*, 405 U.S. 150, 154 (1972), and its progeny, in a timely manner prior to trial.

Disclosure by the Defendant

In light of your request for the foregoing discovery, the Government hereby requests reciprocal discovery under Fed. R. Crim. P. 16(b). Specifically, we request that you allow inspection and copying of: (1) any books, or copies or portions thereof, which are in the defendant's possession, custody or control, and which the defendant intends to introduce as evidence or otherwise rely on at trial; and (2) any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, which are in the defendant's possession or control, and which the defendant intends to introduce as evidence or otherwise rely on at trial or which were prepared by a witness whom the defendant intends to call at trial.

The Government also requests that the defendant disclose prior statements of witnesses he will call to testify. See Fed. R. Crim. P. 26.2; *United States v. Nobles*, 422 U.S. 225 (1975). We request that such material be provided on the same basis upon which we agree to supply the defendant with 3500 material relating to Government witnesses.

We wish to remind you that Fed. R. Crim. P. 12.2 requires you to provide the Government with written notice if the defendant intends to rely on the defense of insanity at the time of the alleged crime or intends to introduce expert testimony relating to a mental disease, defect, or other condition bearing upon the issue of whether he had the mental state required for the offenses charged.

We also wish to remind you that Fed. R. Crim. P. 12.3(a) requires you to provide the Government with written notice if the defendant intends to claim a defense of actual or believed exercise of public authority on behalf of a law enforcement or Federal intelligence agency at the time of the alleged crime.

The Government requests a response to our Rule 12.2 and 12.3 demands within the time period allowed by the Court for the filing of motions.


Sentence Reduction for Acceptance of Responsibility

This Office will oppose the additional one-point reduction under the Sentencing Guidelines available for defendants who plead prior to the Government's initiation of trial preparations pursuant to U.S.S.G. § 3E1.1(b), in the event your client has not entered a plea of guilty four weeks prior to trial. We will follow this policy whether or not suppression or other pretrial motions remain outstanding after this date and even if the trial date has not been announced by the Court four weeks in advance of the trial.

Please contact me at your earliest convenience concerning the possible disposition of this matter or any further discovery which you may request. Please be advised, however, that pursuant to the policy of the Office concerning plea offers, no plea offer is effective unless and until made in writing and signed by authorized representatives of the Office. In particular, discussions regarding the pretrial disposition of a matter that are not reduced to writing and signed by authorized representatives of the Office cannot and do not constitute a "formal offer" or a "plea offer," as those terms are used in *Lafler v. Cooper*, 132 S.Ct. 1376 (2012); *Missouri v. Frye*, 132 S.Ct. 1399 (2012).

Very truly yours,

GEOFFREY S. BERMAN
United States Attorney

by: 

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